

**REMARKS**

Claims 1-13 and 15-17 were pending.

**Double Patenting Rejection**


Claims 1-13 and 15-17 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over U.S. Patent No. 6,747,365. The present application and U.S. Patent No. 6,747,365 were both filed on the same day. The present application's term would be unjustifiably extended upon issuance because U.S. Patent No. 6,747,365 is subject to a 151-day term extension under 35 U.S.C. §154(b) and the claims at issue are obvious over that invention. *See MPEP* § 804. Because U.S. Patent No. 6,747,365 and the present application are, at the same time the present application was made, subject to an obligation of assignment to the same entity, the applicant herewith submits a terminal disclaimer in accordance with 37 C.F.R. § 1.130(a)(1) to overcome this rejection. The fee required under 37 C.F.R. § 1.20(d) is enclosed by check.

**CONCLUSION**

In view of the above remarks, the applicant respectfully requests favorable reconsideration and passage to issuance of this application. The applicant invites the examiner to contact the undersigned attorney with any questions regarding this response or the application as a whole. If there are any additional fees or refunds required, the Commissioner is directed to charge or debit Deposit Account No. 13-2855.

Dated: August 11, 2004

Respectfully submitted,

By 

Anthony G. Sitko  
Registration No.: 36,278  
MARSHALL, GERSTEIN & BORUN  
233 S. Wacker Drive, Suite 6300  
Sears Tower  
Chicago, Illinois 60606-6357  
(312) 474-6300  
Attorneys for Applicant